



09/731,019

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|-------------|---|-------------------------|
| Appellant: | David J. Wilson | Examiner: Marc Thompson |
| Serial No.: | 09/731,019 | Group Art Unit: 2144 |
| Filed: | December 7, 2000 | Docket: 2043.060US1 |
| Title: | USER EVALUATION OF CONTENT ON DISTRIBUTED COMMUNICATION NETWORK | |

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Appellant respectfully requests review of the final rejection in the above-identified application. No amendments are submitted with this request.

Appellant submits that the Examiner has omitted one or more essential elements needed for a prima facie rejection under 35 U.S.C. § 102 or § 103. See MPEP § 2131 and § 2143. In particular, the cited references alone or in combination do not teach or suggest all the claim elements of each rejected claim. Additionally, there is no teaching or suggestion to combine the cited references. Appellant offers the following discussion to refute new assertions made in the Office Action mailed June 21, 2005 (hereinafter referred to as "OA").

This request is being filed with a Notice of Appeal. The review is requested for the following reasons:

Claims 1-2 and 7-17 were rejected under 35 U.S.C. § 102(a) for anticipation by NOWTHIS.COM (nowthis.com blog, dated 11/24/1999, hereinafter, "Nowthis"), or in the alternative under 35 U.S.C. § 103(a) as obvious in view of Nowthis.

Discussion of Claim 1

Claim 1 includes the following:

- displaying product/service reviews from a database on a client display connected to the database over the network;
- providing an interactive element associated with each of the displayed reviews on the client display, which when clicked by a user, indicates that the user has found a displayed review associated with a product/service helpful in determining whether or not to purchase or use the product/service;
- receiving at the database an indication that the user has clicked the interactive element, and incrementing a count of a stored number of indications for the review (1) in response to the indication and (2) if the stored number of indications does not exceed one indication for the review from the user; and
- displaying the count of the stored number of indications for the review on the client display together with the review.

In rejecting claim 1 under §102(a), the OA alleges Nowthis discloses Amazon.com as having implemented each and every claim limitation, including, "...incrementing a count of a stored number of

indications for the review (1) in response to the indication and (2) if the stored number of indications does not exceed one indication for the review from the user.” Specifically, the OA alleges “...‘x people’, it must be presumed that each person is entitled to a single vote, since a second vote from the same person would not increase the number of ‘people’ referenced.” (OA, pg. 6, para. 15) However, the Nowthis disclosure, in its entirety, is a blog quote from a user who is quoting another person. See Nowthis pages 1 and 2, “A couple of notes courtesy of Seth Golub (I think Seth would make an excellent ogger...he's kind of busy with a research project and a postgrad education though):... He also points out that Amazon is getting into the ratings-rating business ("Amazopinions"?): 1 people [sic] found this review helpful. 0 did not. Was it helpful to you? [YES] [NO].” (emphasis added)

The OA also alleges obviousness using Nowthis in view of Official Notice that, “mechanisms for limiting users to a single input were notoriously well known in the art.” (OA, page 6, para. 17) The OA goes on to say, “Since the reference specifically discloses ‘x people’ ...the inclusion of functionality to preclude a ‘people’ or a ‘person’ to a single submitted entry would be obvious....” However, the reference does not specifically disclose “x people,” it discloses a person’s blog entry that is referencing what another person said or wrote, specifically, “1 people [sic] found this review helpful. 0 did not.”

Significantly, the disclosures in Nowthis appear to be nothing more than speculation as to text that could conceivably be included in a user interface. It is rampant speculation to guess what functionality could be embodied in a system that generated such an interface. Simply put, the speculative discussion regarding text that could be provided in a user interface does not approach disclose of each and every limitation of claim 1.

If the Examiner is aware of additional discussion or description which provides further details regarding the speculative feature described in Nowthis, the Examiner is invited to make such additional discussion or description of record.

For additional argument pertaining to the § 102 rejection, see Appellant’s Amendment and Response mailed December 16, 2004, last paragraph beginning on page 6 ending in after the second paragraph of page 8. Independent claims 9 and 14 have substantially similar limitations as claim 1. Therefore, it is respectfully submitted the rejections of these independent claims and their respective dependent claims under U.S.C. § 102(a) have been overcome.

Official Notice that mechanisms for limiting voting/opinion inputs by the same user/person/individual/etc. to a single, definitive position, implemented in a computer networking environment was well known in the art at the time the invention was made (OA pg. 3, para. 8).

The OA states, “a concern for limiting a perons/voter with one, and only one vote, has been a concern since the earliest of elections known to mankind. Any discussion of truly democratic proceedings

necessarily involves the equivalence of all individuals casting votes or opinions, and the limiting of input from each individual to a single, concrete position.” (OA pg. 2 and 3, para. 6) Appellant fails to see the relevance to taking official notice under MPEP § 2144.03. The Examiner as asserted the limitation of “incrementing a count...(2) if the stored number of indications does not exceed one indication for the review from the user,” as such common knowledge that it warrants Official Notice of Fact status. The Examiner has even cited prior patents that allegedly describe various systems that require one vote per user. This is a limitation of a claim, not a irrefutable long standing fact as contemplated by an Official Notice, for example, *In re Chevenard*, 139 F.2d 711, 713, 60 USPQ 239, 241 (CCPA 1943) (accepting the examiner’s finding that a brief heating at a higher temperature was the equivalent of a longer heating at a lower temperature...). One vote one user is not an absolute, and there certainly are other voting schemes that give people more than one vote. For example, corporate votes based on numbers of shares held, etc. For additional argument pertaining to Official Notice, see Appellant’s Amendment and Response mailed December 16, 2004, Response to Arguments, page 10.

Claims 1-2 and 7-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Epinions (www.epinions.com, October 12, 1999, hereinafter “Epinions”) in view of Salas et al. (U.S. 6,230,185, hereinafter “Salas”).

Appellant respectfully submits that if modified as proposed, Salas would be unsatisfactory for its intended purpose. For a more detailed discussion, see Appellant’s Amendment and Response mailed December 16, 2004, last paragraph beginning on page 7 ending in the middle of page 8.

Appellant respectfully submits that the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Appellant's disclosure. For a more detailed discussion, see Appellant’s Amendment and Response mailed December 16, 2004, first two full paragraphs in the middle of page 8.

Appellant respectfully submits that the cited references do not teach or suggest all the claim limitations. For a more detailed discussion, see Appellant’s Amendment and Response mailed December 16, 2004, last full paragraph of page 8 to the first full paragraph of page 10.

Independent claims 9 and 14 have substantially similar limitations as claim 1. Therefore, it is respectfully submitted the rejections of these independent claims and their respective dependent claims under U.S.C. § 103 have been overcome.

Claims 1-2 and 7-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Klingman (U.S. 5,950,172, hereinafter “Klingman”).

Klingman discusses a system providing secure rating information using means available on most telephone equipment, either POTS (plain old telephone system) or ISDN (integrated services digital

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Page 4

Dkt: 2043.060US1

network), based upon consumers' satisfaction relating to products purchased through electronic transmission media such as the Internet. The system may be generalized to provide a secure weighted voting system based on a voters list indexed with or keyed to, caller IDs. (Field of Invention) The OA at page 9, paragraph 29 has alleged Klingman, "disclosed the invention substantially as claimed, Klingman did not expressly disclose the reviewing of reviews." The claims specifically recite, in the preamble and the claim elements, "identifying as being helpful or otherwise valuable product/service reviews," "displaying product/service reviews," "providing an interactive element associated with each of the displayed reviews," etc. It is clear the claims as recited are substantially about reviewing reviews. Since Klingman does not disclose number of elements of independent claim 1 or even suggest that reviewing reviews is desirable, it would have not been obvious for an "artisan" (a person skilled in the art) to combine the teachings of Klingman about submitting reviews of products through a dedicated telephone line/number with what is known in the art at the time of the invention based on a security protocol that uses caller ID to ensure, as best as possible, the person who made the purchase (via an 800 number) scores/reviews the product via the 900 number. (col. 15, ln. 35-47)

Independent claims 9 and 14 have substantially similar limitations as claim 1. Therefore, it is respectfully submitted the rejections of these independent claims and their respective dependent claims under U.S.C. § 103 have been overcome.

CONCLUSION

Appellant respectfully requests review of the final rejection in the above-identified application, as the Examiner has omitted one or more essential elements needed for a prima facie rejection. The Examiner is invited to telephone Appellant's attorney at 408-278-4045 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

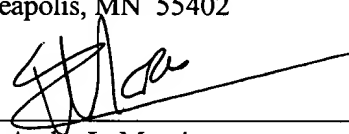
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